



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

concurrency

Ref: 8ENF-RC

GENERAL NOTICE LETTER

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

7008 3230 0003 0726 3970

BNSF Railway Company
Matthew Rose, Executive Chairman
2650 Lou Menk Drive
Ft. Worth, TX 76131

Re: General Notice Letter for the Smurfit Stone Mill Site, Missoula, Missoula County, Montana

Dear Mr. Rose:

May 5,

The U.S. Environmental Protection Agency (EPA) has received and reviewed your ~~June 7~~, 2013, response to its April 3, 2013, information request letter, which was sent to you in connection with the Smurfit Stone Mill Site (the Site) located near Missoula, Montana. Based on your response and other available information, the EPA has determined that the BNSF Railway Company, may be responsible under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal "Superfund" law, for cleanup of the Site or costs the EPA has incurred or will incur in the future in cleaning up the Site.

Explanation of Potential Liability

Under CERCLA, specifically Sections 106(a) and 107(a), potentially responsible parties (PRPs) may be required to perform cleanup actions to protect the public health, welfare, or the environment. PRPs may also be responsible for costs incurred by the EPA in cleaning up the Site, unless the PRP can show divisibility or any of the other statutory defenses. PRPs include current and former owners and operators of a site, as well as persons who arranged for treatment and/or disposal of any hazardous substances found at the site, and persons who accepted hazardous substances for transport and selected the site to which the hazardous substances were delivered.

Based on the information collected, the EPA believes that BNSF may be liable under Section 107(a) of CERCLA, as an owner at the Site.

Land operator

To date, the EPA performed site investigations and a removal assessment under the authority of the Superfund Program in order to gain a basic understanding of any risks posed to human health and/or the environment by releases or threatened releases at and from the Site. On August 20, 2012, the EPA issued an "Analytical Results Report for a Combined Site Inspection and Removal Assessment" for the Site.

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Field work and sampling activities were conducted on surface and subsurface soil and sediment, and surface water and groundwater.

Information to Assist You

The EPA would like to encourage communication between you, other PRPs, and the EPA regarding the Site. The EPA recommends that all PRPs meet to select a "steering committee" that will be responsible for representing the group's interests. Establishing a manageable group is critical to successful negotiations with the EPA. If this is not possible, the EPA encourages each PRP to select one person from its company or organization to represent its interests to the EPA.

To assist you in your efforts to communicate, a list of names and addresses of PRPs to whom this letter is being sent is enclosed.

The documentation supporting the proposal to list the Site on the National Priorities List is available at the Missoula Public Library, 301 E. Main Street, Missoula, Montana, 59802. In addition, the EPA will establish an administrative record that contains documents that will serve as the basis for the EPA's selection of a cleanup action for the Site. The administrative record will be located at the Missoula Public Library. The administrative record will be available to you and the public for inspection and comment. The administrative record will also be available upon request at the Superfund Records Center, EPA Region 8, at 1595 Wynkoop Street, Denver, Colorado.

Please give these matters your immediate attention. If you have any questions regarding this letter, please contact Amelia Piggott, Enforcement Attorney, at 303-312-6410. Thank you for your prompt attention to this matter.

Sincerely,

Aaron Urdiales, Acting Director
RCRA/CERCLA Technical Enforcement Program
Office of Enforcement, Compliance,
and Environmental Justice

Andrea Madigan, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: Amelia Piggott, 8ENF-L
Robert Parker, 8EPR-AR
Sara Sparks, 8MO
Sharon Abendschan, 8ENF-T

BNSF Railway Company
Brooke Kuhl
General Attorney
201 West Railroad Street
Missoula, MT 59801

List of PRPs Receiving General Notice Letters
Regarding Superfund Liability for the Smurfit Stone Site

PRP

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BNSF Railway Company
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Regarding Superfund Liability for the Smurfit Stone Site

PRP

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Michele Landquist, Chair
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